

MINUTES OF THE MEETING  
OF THE CITY COUNCIL OF THE  
CITY OF BURLINGTON  
November 21, 2006  
9:00 A.M.

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on November 21, 2006, at 9:00 a.m.

Mayor Stephen M. Ross presided

Councilmembers present: Mayor Ross, Councilmembers Jones, Huffman, Starling and Wall

Councilmembers absent: None

Harold Owen, City Manager, present

Robert M. Ward, City Attorney, present

Jondeen D. Terry, City Clerk, present

INVOCATION: Councilmember Don Starling

MINUTES

Mayor Ross called for approval of the City Council work session minutes of November 7, 2006, City Council meeting of November 6, 2006, and work session closed session of November 6, 2006.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to approve the minutes of the meetings held on November 6, 2006 and November 7, 2006.

ADOPTION OF AGENDA

Upon motion by Councilmember Wall, seconded by Councilmember Starling, it was resolved unanimously to adopt the agenda.

CONSENT AGENDA:

- A) To adopt two resolutions authorizing the lease of City-owned surplus real property to Cingular Wireless PCS in accordance with provisions of the North Carolina General Statutes Section 160A-272. The properties are located at Joe C. Davidson Park and at the Number Four Fire Station, South Church Street.

06-35

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURLINGTON, NORTH CAROLINA, AUTHORIZING THE LEASE OF CITY-OWNED SURPLUS REAL PROPERTY TO CINGULAR WIRELESS PCS IN ACCORDANCE WITH PROVISIONS OF NORTH CAROLINA GENERAL STATUTES 160A-272

WHEREAS, the City of Burlington has declared certain City-owned surplus real property, said property being more particularly described as follows:

BEING a portion of that real property owned by the City of Burlington and located at the intersection of US Highway 70 and International Drive, known as the Number Four Fire Station.

Lease Area

BEGINNING at an "X" chiseled in concrete at the intersection of the southern right-of-way of US Highway 70 and the western right-of-way of International Drive; thence along the right-of-way of International Drive S 13-46-57 W 122.57 feet to an existing iron pipe; thence leaving said right-of-way N 88-49-03 W 93.28 feet to a point; said point being the point of beginning for the new lease area; thence N 88-49-03 W 17.34 feet to a point; thence N 01-21-54 B 1.75 feet to a point; thence N 88-38-15 W 17.20 feet to a point; thence N 01-21-54 E 22.80 feet to a point; thence N 87-34-43 W 3.80 feet to a point; thence N 02-25-17 B 39.40 feet to a point; thence S 87-55-59 B 21.00 feet to point; thence S 02-25-17 W 39.52 feet to a point; thence S 87-34-43 E 17.59 feet to a point; thence S 01-57-38 W 23.86 feet to the point and place of beginning for the new lease area containing 1,638 square feet or 0.04 acres more or less.

WHEREAS, the City Council of the City of Burlington, pursuant to North Carolina General Statutes 160A-272, desires to lease said surplus real property to Cingular Wireless PCS for a term of five (5) years with an option of five (5) additional years, and in consideration, therefore, the City shall receive a rental fee of Twenty Six Thousand Five Hundred Forty Two Dollars

and Twenty-Three Cents (\$26,542.23) per year for the initial five (5) years. The rent for the renewal term shall be Thirty One Thousand Eight Hundred Fifty Dollars (\$31,850.68 per year); and,

WHEREAS, the proper notice has been given in accordance with NCGS 160A-272 of the City of Burlington's intentions to execute an agreement to lease City-owned surplus real property; and,

WHEREAS, the City Council of the City of Burlington, at its regular meeting on Tuesday, November 21, 2006, shall adopt a resolution authorizing the lease of the City-owned surplus property.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURLINGTON does hereby resolve that said surplus property shall be leased to Cingular Wireless PCS as more particularly described above and in accordance with NCGS 160A-272, and in consideration, therefore, the City of Burlington shall receive a rental fee of Twenty Six Thousand Five Hundred Forty Two Dollars and Twenty-three Cents (\$26,542.23) per year for the initial five (5) years. The rent for the renewal term shall be Thirty One Thousand Eight Hundred Fifty Dollars and sixty-eight cents (\$31,850.68 per year).

AND IT IS FURTHER RESOLVED that this lease shall become effective upon the adoption of this resolution by the City Council of the City of Burlington and the execution of said lease by the Mayor and the City Clerk of the City of Burlington.

06-36

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURLINGTON, NORTH CAROLINA, AUTHORIZING THE LEASE OF CITY-OWNED SURPLUS REAL PROPERTY TO CINGULAR WIRELESS PCS IN ACCORDANCE WITH PROVISIONS OF NORTH CAROLINA GENERAL STATUTES 160A-272

WHEREAS, the City of Burlington has declared certain of City-owned surplus real property, said property being more particularly described as follows:

BEING a portion of that real property owned by the City of Burlington and located at Rural Retreat Road and known as Joe C. Davidson Park.

Lease Area

BEGINNING at an iron pipe found located on the northerly margin of the Rural Retreat Road right-of-way, said iron pipe

marking the southwest corner of the City of Burlington property as described in Deed Book 662 at Page 1 in the aforesaid public registry; thence N10°24'40"E 1085.64 feet to an iron pipe found on the common line of the aforementioned City of Burlington property and the Michael A. Taylor property as described in Deed Book 536 at Page 321 in the aforesaid registry; thence S27°28'16"E 508.87 feet to an iron pin found marking the Northeast corner of the Existing Lease Area, and Northeast corner being the POINT OF BEGINNING; thence S11°43'04"E 40.03 feet to an iron pin found marking the Southeast corner of the Existing Lease Area; thence S78°25'13"W 49.93 feet to an iron pin found marking the Southwest corner of the Existing Lease Area; thence N11°49'39"W 39.94 feet to an iron pin found marking the Northwest corner of the Existing Lease Area; thence N78°18'48"E 50.01 feet to the POINT OF BEGINNING and containing 1,998 square feet as shown on a survey prepared by Edward L. Killough, NCPLSL-1519 dated January 7, 2005.

WHEREAS, the City Council of the City of Burlington, pursuant to North Carolina General Statutes 160A-272, desires to lease said surplus real property to Cingular Wireless PCS for a term of five (5) years with an option of five (5) additional years, and in consideration, therefore, the City shall receive a rental fee of Seventeen Thousand Dollars \$17,000.00 per year for the initial five (5) years. The rent for the renewal term shall be Twenty Thousand Four Hundred Dollars (\$20,400.00) per year; and,

WHEREAS, the proper notice has been given in accordance with NCGS 160A-272 of the City of Burlington's intentions to execute an agreement to lease City-owned surplus real property; and,

WHEREAS, the City Council of the City of Burlington, at its regular meeting on Tuesday, November 21, 2006, shall adopt a resolution authorizing the lease of the City-owned surplus property.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURLINGTON does hereby resolve that said surplus property shall be leased to Cingular Wireless PCS as more particularly described above and in accordance with NCGS 160A-272, and in consideration, therefore, the City of Burlington shall receive a rental fee of Seventeen Thousand Dollars (\$17,000.00) per year for the initial five (5) years. The rent for the renewal term shall be Twenty Thousand Four Hundred Dollars (\$20,400.00) per year.

AND IT IS FURTHER RESOLVED that this lease shall become effective upon the adoption of this resolution by the City Council of the City of Burlington and the execution of said lease by the Mayor and the City Clerk of the City of Burlington.

- B) To authorize the disposal of building plans in the Inspections Division that have been held longer than one year as permitted within the North Carolina General Statutes.
- C) To approve an agreement to provide quarterly reports to the Town of Green Level by the City of Burlington Animal Shelter/Pet Adoption Facility stating the number of strays picked up within the corporate limits of Green Level.
- D) To approve two Memorandums of Understanding: (1) City of Burlington Police Department, Elon University Campus Police and Alamance County Central Communications; and, (2) City of Burlington Police Department, Town of Elon Police Department and Alamance County Central Communications to monitor the emergency activation button on their 800 MHZ radio system and to notify Alamance County Central Communications in the event of activation.
- E) To authorize an investment account at Randolph Bank and to authorize the City Clerk to attest the resolution.
- F) Budget Amendment 2007-21 - Burlington Downtown Corporation Contribution to Master Plan Study

BA2007-21

Increase Revenues:

010-39398-0000	Appropriated Fund Balance	\$20,000
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Increase Expenditures:

010-50502-1900	Professional Services	\$20,000
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- G) Budget Amendment 2007-22 - Repair of Raw Water Pump #2 - Stoney Creek Raw Water Pump Station

BA2007-22

Increase Revenues:

030-39398-0000	Appropriated Fund Balance	\$39,000
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Increase Expenditures:

030-82802-7300	Capital - Other Improvements	\$39,000
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H) Budget Amendment 2007-23 - Rockwood Avenue Water Line - March 7, 2006 Petition

BA2007-23

Increase Revenues:

030-39398-000	Appropriated Fund Balance	\$150,000
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Increase Expenditures:

030-75705-7300	Capital-Other Improvements	\$150,000
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Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to approve the foregoing consent agenda.

PUBLIC HEARINGS:

ITEM 2: REZONING - ALAMANCE ROAD

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from R-15, Residential District, to R-9, Residential District, the property located on the west side of Alamance Road (NC Highway 62 South) approximately 330 feet southwest of Hoskins Road as shown on Alamance County Tax Map 12-3, Lots 17 and 20.

Planning Director Robert Harkrader stated that this request was to rezone from R-15, Residential District, to R-9, Residential District, properties located on Alamance Road.

Mr. Larry McCauley, property owner, thought all property was zoned R-9 when he purchased it.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

06-47

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property on Alamance Road)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from R-15, Residential District, to R-9, Residential District, the property located on the west side of Alamance Road (NC Highway 62 South) approximately 330 feet southwest of Hoskins Road as shown on Alamance County Tax Map 12-3, Lots 17 and 20.

Section 2. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 3. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

ITEM 3: AMEND CONDITIONAL BUSINESS REZONING - UNIVERSITY COMMONS SHOPPING CENTER

Mayor Ross announced that a public hearing had been scheduled to consider amending a Conditional Business rezoning approved for Wakefield Associates on June 3, 2004. The parcel, as shown on Alamance County Tax Map 3-26, Lot 94, was formerly part of the Wakefield Associates development and is located on University Drive in the University Commons Shopping Center. The request is to allow construction of a 30,000-square-foot building.

Planning Director Robert Harkrader stated that the Council had previously considered a Conditional rezoning for this property that provided for buildings at University Commons and that this request would be to allow an increase in size of this building. He stated that there were provisions in the City's ordinance that permitted staff to allow minor changes and that this square footage was larger than what staff could approve administratively and that it was necessary for the petitioner to come before the Council.

Petitioner was present but had no comment.

Councilmember Starling asked about a signage package.

Mr. Harkrader stated he did not anticipate any signage issues.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

06-48

ORDINANCE TO AMEND CONDITIONAL BUSINESS REZONING FOR UNIVERSITY COMMONS SHOPPING CENTER TO ALLOW CONSTRUCTION OF 30,000-SQUARE-FOOT BUILDING

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That Ashley Furniture Company has requested that the Use Conditions previously approved in the Conditional Business rezoning for University Commons Shopping Center be amended to allow the construction of a 30,000-square-foot building. The property is located on University Drive as shown on Alamance County Tax Map 3-26-94.

Section 2. That the amendment to the Conditional Business rezoning allowing the increase in square footage of a building to be constructed at University Commons Shopping Center is hereby authorized subject to the property complying with all previously approved Use and Development Conditions.



Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

#### NEW BUSINESS:

##### ITEM 4: DEMOLITION - 117 KIME STREET

Mayor Ross announced that the City Council would consider a request to adopt an ordinance requiring the demolition of a house located at 117 Kime Street.

Councilmember Huffman asked if anyone was present to speak for or against the demolition on 117 Kime Street.

No one was present to speak.

Councilmember Huffman moved the adoption of the following ordinance:

06-49

ORDINANCE REQUIRING THE DEMOLITION OF A HOUSE LOCATED AT 117 KIME STREET IN THE CITY OF BURLINGTON

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
BURLINGTON:

- Sec. 1. That the house located at 117 Kime Street and owned by Sarah Jane Hinton & Joseph H. Graves has been found by the Building Inspector to be in such a dilapidated state of disrepair with substandard conditions such as to be dangerous to life, health and other property and constitutes a fire or safety hazard to the residents of the City of Burlington.
- Sec. 2. That the owner of said property has been duly notified after "Complaint and Notice of Hearing" has been duly held by the Building Inspector to demolish and remove the said house above-mentioned and has failed to obey such order.
- Sec. 3. That this Council has found and does hereby find that the Building Inspector has complied fully with the provisions of said Chapter 14 of the City Code of the City of Burlington; and that, after a careful review of the findings of the Building Inspector, the Council has found and does hereby find and determine that the house in question is in such a dilapidated and substandard state of disrepair as to constitute a fire or safety hazard and is dangerous to life, health and other property; and that the owner of said house has failed to have the house demolished and removed; and that all of the proceedings of the Building Inspector are hereby incorporated into and made a part of this ordinance by reference.
- Sec. 4. That it is, therefore, ordered that the Building Inspector proceeds with the complete demolition and removal of said house immediately.
- Sec. 5. That the City Tax Collector is hereby directed to place on the City's tax records all costs incurred as a result of the demolition and removal of the house mentioned and such costs are to be collected in accordance with the applicable law.
- Sec. 6. That subject to Section 10 hereof, said demolition and removal of said house shall be completed within sixty (60) days from the date hereof.

- Sec. 7. That, in the event there shall be any excess funds arising out of salvage and resulting from the demolition and removal of the house mentioned, after paying all costs connected with such demolition and removal, any such balance remaining shall be deposited in the Office of the Clerk of Superior Court of Alamance County, North Carolina, by the Building Inspector to be secured in such manner as may be directed by such court and disbursed by the court to the persons found to be entitled thereto by the final order decree of such court.
- Sec. 8. That subject to Section 10, hereof, this ordinance shall constitute a final order or condemnation and demolition and removal of such house.
- Sec. 9. That the contract for the demolition of the house described in Section 1 located at 117 Kime Street is hereby awarded to Carl Norris Construction in the amount of \$2,500.00.
- Sec. 10. Said ordinance shall be effective ten (10) days from this date, provided renovation of said house has not begun within that time.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

#### ITEM 5: DEMOLITION - 119 KIME STREET

Mayor Ross announced that the City Council would consider a request to adopt an ordinance requiring the demolition of a house located at 119 Kime Street.

Mr. William Eric Longest stated that he owned the property and had bought it from the City the first of the year and that there were no qualms that the property would be demolished. He stated that he had talked to Phillip Moody who owns a grading company and that it would be two to three weeks before he could get the house demolished. Mr. Longest stated that the City could

demolish it or he could and that he got a better price for the demolition.

Councilmember Jones stated that if the City demolished the house that it would be a lien against the property.

Mr. Longest stated that he understood. He stated that when he paid off the lien it would not be a problem and would only be for the amount of the demolition.

Planning Director Harkrader stated that was correct and that there may be other administrative costs associated with the cost of the demolition.

Councilmember Huffman moved the adoption of the following ordinance:

06-50

ORDINANCE REQUIRING THE DEMOLITION OF A HOUSE LOCATED AT 119 KIME STREET IN THE CITY OF BURLINGTON

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON:

- Sec. 1. That the house located at 119 Kime Street and owned by William Eric Longest has been found by the Building Inspector to be in such a dilapidated state of disrepair with substandard conditions such as to be dangerous to life, health and other property and constitutes a fire or safety hazard to the residents of the City of Burlington.
- Sec. 2. That the owner of said property has been duly notified after "Complaint and Notice of Hearing" has been duly held by the Building Inspector to demolish and remove the said house above-mentioned and has failed to obey such order.
- Sec. 3. That this Council has found and does hereby find that the Building Inspector has complied fully with the provisions of said Chapter 14 of the City Code of the City of Burlington; and that, after a careful review of the findings of the Building Inspector, the Council has found and does hereby find and determine that the house in question is in such a dilapidated and substandard state of disrepair as to constitute a fire or safety

hazard and is dangerous to life, health and other property; and that the owner of said house has failed to have the house demolished and removed; and that all of the proceedings of the Building Inspector are hereby incorporated into and made a part of this ordinance by reference.

- Sec. 4. That it is, therefore, ordered that the Building Inspector proceeds with the complete demolition and removal of said house immediately.
- Sec. 5. That the City Tax Collector is hereby directed to place on the City's tax records all costs incurred as a result of the demolition and removal of the house mentioned and such costs are to be collected in accordance with the applicable law.
- Sec. 6. That subject to Section 10 hereof, said demolition and removal of said house shall be completed within sixty (60) days from the date hereof.
- Sec. 7. That, in the event there shall be any excess funds arising out of salvage and resulting from the demolition and removal of the house mentioned, after paying all costs connected with such demolition and removal, any such balance remaining shall be deposited in the Office of the Clerk of Superior Court of Alamance County, North Carolina, by the Building Inspector to be secured in such manner as may be directed by such court and disbursed by the court to the persons found to be entitled thereto by the final order decree of such court.
- Sec. 8. That subject to Section 10, hereof, this ordinance shall constitute a final order or condemnation and demolition and removal of such house.
- Sec. 9. That the contract for the demolition of the house described in Section 1 located at 119 Kime Street is hereby awarded to Carl Norris Construction in the amount of \$2,500.00.
- Sec. 10. Said ordinance shall be effective ten (10) days from this date, provided renovation of said house has not begun within that time.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

ITEM 6: DEMOLITION - 902 SIDNEY AVENUE

Mayor Ross announced that the City Council would consider a request to adopt an ordinance requiring the demolition of a house located at 902 Sidney Avenue.

Planning Director Harkrader stated that during the title search this property had changed hands and requested that this hearing be continued for six months to allow staff to get with the new property owner and see if the house could be repaired.

Councilmember Huffman made a motion to continue the demolition to the second meeting in May 2007.

Councilmember Jones stated that he did not want to wait six months and that this had been going on for two years. He suggested that this item be continued for 30 days to find out who the owner was and move on.

City Attorney Robert Ward stated that due to the lack of notice to the new owner, that he would recommend correcting this procedural error by providing notice to the new owner and starting the process over.

Councilmember Jones stated that the item would need to be removed and start the process over.

Councilmember Huffman removed the motion from the table.

Councilmember Starling asked if the item was removed would it take more than six months to come back to the Council for consideration.

Councilmember Jones stated that it should not take that long.

Upon motion by Councilmember Jones, seconded by Councilmember Huffman, it was resolved unanimously remove Item 6 from the agenda and for staff to report back in 30 days.

PUBLIC COMMENT PERIOD:

Mr. Celo Faucette, representing Glen Raven Neighborhood Watch Committee, expressed concern with street paving in the Glen Raven area and the possibility of street bond money having been used. He stated that he had talked to Public Works Director Gary Hicks in reference to Park Road. Mr. Faucette stated that a lot of settlement had happened since the water and sewer lines were put in and that the state had come in and put a thin layer of pavement on the road. He stated that the City would take in Park Road over the next year and wanted to make the Council aware of this road.

Councilmember Jones stated that road bond money was not used in the paving of Park Road.

Development and Technical Services Director Jim Lauritsen stated that the decision to do the paving on this particular road was made by the North Carolina Department of Transportation (NCDOT) and City staff had been communicating with NCDOT and that additional work would need to be done on this particular street after the City received ownership. He stated that the City should take ownership by July 1, 2007.

Public Works Director Gary Hicks stated that the state's concept of resurfacing was not the same as the City's. He stated that the state used a microchip that was cosmetic and not structural paving.

ADJOURN:

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to adjourn.

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Jondeen D. Terry  
City Clerk